CONFLICT OF LAWS — RIGHTS IN PROPERTY — ATTACHMENT OF PROPERTY BROUGHT INTO STATE WITHOUT CONSENT OF OWNER. — A vessel belonging to A was anchored in American waters. By the procurement of B, a judgment creditor of A, its cable was cut so that it drifted into Canadian waters where B had an attachment levied on it. *Held*, that the attachment should be dissolved. *Houghton* v. *May*, 17 Ont. W. Rep. 750 (High Ct., Dec. 15, 1910). See NOTES, p. 567.

CONSTRUCTIVE TRUSTS — LIABILITY OF INNOCENT PARTIES — PROMISE OF CO-LEGATEE. — A legacy absolute on its face was given to three persons as tenants in common. The testator was induced to do this by the oral promise of one of the legatees to transfer the property to a society. *Held*, that the whole legacy is subject to a trust for the society. *Winder* v. *Scholey*, 83 Oh. St. 63.

Where a devise in joint-tenancy is secured by an oral promise of one devisee, unauthorized by his companions, to give the property to a third person, all the devisees hold in trust for the person designated. *Russell* v. *Jackson*, 10 Hare, 204; *Matter of O'Hara*, 95 N. Y. 403, 413. When such a devise is to tenants in common, only the promisor is so bound. *Tee* v. *Ferris*, 2 Kay & J. 357; *Fairchild* v. *Edson*, 154 N. Y. 199. This difference seems unwarranted. When the promise is made the relation of co-tenancy has not begun, so no supposed peculiar doctrines as to joint-tenancy should be invoked. And in each case the title is thrust into the devisees, so there is the same lack of proof of ratification of the acts of the promisor. Moreover, even though co-tenancy exists at breach, a joint-tenant is no more affected by a contract of, or notice to, his companion than is a tenant in common. *Hanks* v. *Enloe*, 33 Tex. 624. See FREEMAN, COTENANCY, 2 ed., §§ 171, 182. *Contra*, *Freeman* v. *Laing*, [1899] 2 Ch. 355. Unjust enrichment must be the reason for raising the trust in either case, and since a tenant in common profits by the fraud as directly as does a joint-tenant, he, too, should be subject to a trust. *Trustees of Amherst College* v. *Ritch*, 151 N. Y. 282. See 21 HARV. L. REV. 286.

CORPORATIONS — STOCKHOLDERS: INDIVIDUAL LIABILITY TO CORPORATION AND CREDITORS — WAIVER OF LIABILITY. — The defendant took stock in the X company, paying therefor in land, which was accepted at a gross overvaluation. The plaintiff, relying on the representation that the shares had been fully paid for, purchased bonds of the company, each bond containing a waiver of all remedies against the stockholders. The company became insolvent, and this action was brought to recover the balance due on the shares. *Held*, that the defendant is liable, since the waiver was not intended to include any liability for misrepresentation. *Downer* v. *Union Land Co.*, 129 N. W. 777 (Minn.). See NOTES, p. 565.

CRIMINAL LAW — SENTENCE — EFFECT OF IRREGULAR SENTENCE. — After a verdict of guilty in a murder trial, the judge pronounced sentence without the defendant's being asked, according to the statutes, whether he had any legal cause to show why judgment should not be pronounced against him. *Held*, that the case should be remitted for proceedings on the verdict according to the statute. *People* v. *Nesce*, 201 N. Y. 111.

This case overrules a prior decision holding such error ground for a new trial. *Messner* v. *People*, 45 N. Y. 1. The early English practice of not allowing a defendant accused of felony the benefit of counsel may have made this question essential. *Rex* v. *Geary*, 2 Salk. 630. See 1 CHITTY, CRIMINAL LAW, 700. But at present the rights of the accused are so adequately protected that it is a mere form. The decision shows the modern tendency away from the exaggerated desire to protect the accused by taking advantage of any technical error, however harmless. *Cf. Oborn* v. *State*, 143 Wis. 249, 280.

Some courts even say that this omission is not reversible error. *Warner* v. *State*, 56 N. J. L. 686. But where the question is required by statute, the judgment cannot be regular unless that requirement is fulfilled. *People* v. *Walker*, 132 Cal. 137.

CRIMINAL LAW — SENTENCE — EFFECT OF UNAUTHORIZED POSTPONEMENT OF PUNISHMENT. — A sentence of fine and imprisonment was pronounced, with the proviso that if the fines were paid, the imprisonment would be suspended during good behavior. The defendants were released, on payment of the fines. After the term of commitment ordinarily would have expired, they were retaken. *Held*, that the sentence should now be enforced. *State* v. *Abbott*, 70 S. E. 6 (S. C.).

Some courts hold that such a sentence runs from the time it was pronounced, though the defendant has not been imprisoned. *In re Webb*, 89 Wis. 354. Others say that an indefinite postponement of sentence forfeits jurisdiction of the cause. *People ex rel. Boenert* v. *Barrett*, 202 Ill. 287. The view of the principal case, however, seems the sound one, and represents the weight of authority. *Neal* v. *State*, 104 Ga. 509; *State* v. *Cockerham*, 24 N. C. 204. If the sentence is not actually served because the prisoner escapes, he may be reimprisoned after the term would have expired. *Dolan's Case*, 101 Mass. 219. The same is true if the sheriff wrongfully delays punishment. *Miller* v. *Evans*, 115 Ia. 101. That the judge is the one at fault should not alter the case. *Ex parte Collins*, 6 Cal. App. 803.

CROPS — RIGHT TO MATURED BUT UNSEVERED CROP AT TERMINATION OF LEASE. — The defendant gave the plaintiff a lease for one year of some land upon which the plaintiff raised a cotton crop. At the end of the term, part of the crop stood matured, but unpicked in the field. This the plaintiff picked, but the defendant held it as his own. The plaintiff brought replevin. *Held*, that he may recover. *Opperman* v. *Littlejohn*, 54 So. 77 (Miss.).

A tenant for an uncertain time may return after the end of his term to gather the crops, sown during the continuance of his lease. See *Brown* v. *Thurston*, 56 Me. 126. Usually, however, a tenant for a fixed term has no right to harvest crops after his term has expired. *Sanders* v. *Ellington*, 77 N. C. 255. In some states custom is allowed to change this and give the tenant the right to take the "waygoing" crop. *Van Doren* v. *Everitt*, 5 N. J. L. *460. But a case in Virginia expressly decides that, as there can be no immemorial customs in this country, the common law cannot be altered in this respect by the custom of the district. *Harris* v. *Carson*, 7 Leigh (Va.) 632. A few jurisdictions regard matured crops, though still uncut, as personalty. *Hecht* v. *Dettman*, 56 Ia. 679. *Contra*, *Tripp* v. *Hasceig*, 20 Mich. 254. See TIFFANY, LANDLORD & TENANT, 1644. And it has been held that even a tenant for a fixed term may return within a reasonable time after the end of his lease to remove his personalty. *Smith* v. *Boyle*, 66 Neb. 823. See TIFFANY, LANDLORD & TENANT, 1672. It would seem, therefore, that there is some authority to support the decision in the principal case. *Cf. Meffert* v. *Dyer*, 107 Mo. App. 462.

DAMAGES — CONSEQUENTIAL DAMAGES — LOSS OF OPPORTUNITY TO COMPETE FOR EMPLOYMENT. — The defendant contracted to choose, from fifty women who should be selected by the readers of a newspaper, twelve to be members of his theatrical company. He failed to give notice to the plaintiff, who was one of the fifty, so that she might present herself for the final selection. *Held*, that the plaintiff's recovery is not limited to nominal damages. *Chaplin* v. *Hicks*, 27 T. L. Rep. 244 (Eng., K. B. Div., Feb. 8, 1911).

The rule requiring that damages be certain usually defeats recovery for loss of a mere chance of gain. *Johnson* v. *Western Union Tel. Co.*, 79 Miss. 58.